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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 10540/2022

UDAY JAYANT DESAI

..... Petitioner

Through: Mr.Siddharth Agarwal, Sr. Adv. with  
Ms.Neeha Nagpal, Mr.Malak M  
Bhatt, Ms. Sowjhanya Shankaran and  
Mr.Vishvendra Tomar, Advs.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr.Ajay Dignpaul, CGSC with  
Mr.Kamal R. Dignpaul and Ms.Swati  
Khawtra, Advs and Mr. Pinky, Adv.  
for R-1 and 2.  
Mr. Akash Meena, G.P.  
Mr.Zoheb Hossain, Adv. for ED with  
Mr.Vivek Gurnani, Adv.  
Mr.Ripu Daman Bhardwaj, Adv. for  
CBI/R-3.  
Mr. Naman, Adv. for R-6 and R-10.  
Mr. Sarfaraz Khan, Adv. for R-9  
Mr. Niti Jain, Adv. for R-11  
Ms.Bindu Das, Adv. for R-12.  
Mr.Arun Aggarwal, Ms.Srishty Jaura,  
Advs. for R-14.  
Mr.Santosh Kumar Rout and  
Mr.Abhishek Chakraborty, Advs. for  
R-17 / Central Bank of India.

**CORAM:**

**HON'BLE MR. JUSTICE YASHWANT VARMA**

**ORDER**

**26.07.2022**

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**W.P.(C) 10540/2022**

Notice.

Bearing in mind the issues which stand raised in the writ petition including the challenge to the circular issued by the Union respondents, let the noticed respondents file their replies within a period of six weeks.

List again on 18.01.2023.

**CM APPL. 30439/2022(Interim direction)**

This application has been preferred by the petitioner for being granted interim permission to travel in terms of the particulars which are set forth therein:-

“b. pass an order permitting the petitioner to travel abroad from 01.08.2022 till 15.09.2022 and suspend the Look Out Circular issued against the Petitioner on such terms and conditions as this Hon’ble Court may deem fit and necessary”

The travel is sought in the backdrop of the medical condition of the petitioner as well as of his desire to meet his two sisters staying abroad and in light of his advancing years.

The Court notes from the material placed on the record that the petitioner has been accorded bail on medical grounds by the Supreme Court.

The petitioner was one of the Key Management Personnel in M/s. Frost Infrastructure and Energy Ltd. The various cases and proceedings which have been initiated by the respondents are set forth in a form of a chart which was placed for the consideration of the Court by the petitioner himself. Those details are extracted hereinbelow:-

<b>Proceedings</b>	<b>Allegations</b>	<b>Status</b>	
<b><u>CBI [Lucknow]</u></b> FIR No.RC0062019A0015 dt.	Fraudulent conduct of merchanting trade (MT) business by	Petitioner was summoned to join investigation	The investigation is pending as on

04.11.2019 u/S. 120B, 420, 468, 471, 477-A <b><u>Complainant</u></b> Union Bank of India  Ref: FIR @ <b>Pg.282, Petition</b>	Frost Infrastructure & Energy Ltd. (FIEL) and its directors, including Petitioner, causing wrongful loss to lender banks to the tune of Rs.68 crores	in October 2021, which he duly complied with. He has not been summoned for investigation thereafter.	date, and no Chargesheet appears to have been filed.
<b><u>ED</u></b> ECIR	Registered pursuant to CBI FIR dt. 04.11.2019	Petitioner was summoned to join investigation once, which he duly complied with. He has not been summoned further.	The investigation is pending as on date, and no Complaint appears to have been filed.
<b><u>CBI [Lucknow]</u></b> FIR RC0062021A0004 dt. 23.03.2021 u/S. 120B, 420, 468, 471, 477-A and S. 13(2) r/w S. 13(1)(d) PC Act <b><u>Complainant</u></b> Indian Overseas Bank  Ref: FIR @ <b>Pg. 309. Petition</b>	Fraudulent conduct of MT business by FIEL and its directors, including Petitioner, causing wrongful loss to lender banks to the tune of Rs.138.39 crores	Petitioner was summoned to join investigation in January 2022, which he duly complied with. He has not been summoned further.	The investigation is pending as on date, and no Chargesheet appears to have been filed.
<b><u>CBI [New Delhi]</u></b> FIR No.RCBD1/2020/E/0001 dt. 19.01.2020 u/S. 120B r/w 420, 467, 468, 471 and S. 13(2) r/w S. 13(1)(d), PC Act <b><u>Complainant</u></b> Bank of India  Ref: FIR @ <b>Pg. 212, Petition</b> Also see: <b>Para 20, Reply filed by CBI on 25.07.2020</b>	Fraudulent conduct of MT business by Frost International Ltd. (FIL) and its directors, guarantors, etc. including Petitioner, and cheating lender banks to the tune of Rs.3592 crores	Petitioner has not been called for investigation even once as on date.	The investigation is pending as on date, and no Chargesheet appears to have been filed.
<b><u>ED</u></b> ECIR	Registered pursuant to CBI FIR Dt.	Petitioner's statement under	Prosecution Complaint

<p>No.LKZO/01/2020/2778 dt. <b>07.02.2020</b></p>	<p>19.01.2020</p>	<p>S. 50, PMLA was recorded while he was in judicial custody in the SFIO case [March 2021]. He was further summoned to join investigation in September 2021, which he duly complied with.</p>	<p>under S. 45, PMLA was filed on 22.04.2021. The Petitioner has not been named as Accused.</p>
<p><b>SFIO</b> Case No.SC 577/2020 [Spl. Court, Kanpur] u/S. 36(c) r/w S. 447, 185, 186, 447, 448 r/w 447, Companies Act, 2013 and S. 211 r/w S. 628, Companies Act, 1956</p> <p>Registered 69 accused, including Rotomac group of companies, Frost International Ltd., and Petitioner (Accused No.43)</p> <p>Ref: Chart @ <b>Pg. 395, Petition</b> SFIO Complaint @ <b>Pg. 394, Petition</b> Bail Order @ <b>Pg. 462, Petition</b></p>	<p>Loss of Rs.4041 Crores to banks and siphoning of Rs.845 Crores attributed to FIL for fraudulent conduct of MT business</p> <p>Allegations against the Petitioner and other Directors was of utilization of the corporate identity to FIL to rotate funds under the garb of MT, by discounting of letters of credit and earning interest on the same and manipulating accounting books to show fake MT receivables to the tune of Rs.3537.74 Crores to obtain the credit facilities.</p>	<p>Petitioner was summoned to join investigation on 30.09.2019, 19.11.2019, 10.01.2020, 25.01.2020, 30.01.2020 which he duly complied with and also submitted documents as sought by the Agency.</p>	<p>Petitioner was arrested on 19.03.2020. The investigation has been completed, and a Complaint was filed on 15.05.2020. The Petitioner was granted regular bail by the Hon'ble Supreme Court on 10.08.2021.</p>
<p><b>SFIO</b> Investigation initiated pursuant to MCA order</p>	<p>Allegation of loss caused to banks by fraudulent conduct of</p>	<p>Petitioner has not been called for investigation</p>	<p>The investigation is pending as on</p>

dated 29.05.2020 against FIEL, Globiz and OOIL (3 group companies of FIL)	MT business and rotation of funds to earn interest arbitrage.	even once as on date.	date, and no Complaint appears to have been filed.
<b>CBI [New Delhi]</b> FIR No.2172021A0001 dt. 12.01.2021 u/S. 7, 7A, 8, 12, PC Act and S. 120B  Ref: FIR @ Pg. 4, <b>Additional Affidavit filed on 25.07.2022</b>	Payment of bribe by public servant to inspector in charge of investigation of various cases, including of FIL. The allegation was that such bribes were paid on behalf of the Petitioner and Mr. Sujay Desai for FIL	Petitioner joined investigation while he was in judicial custody in the SFIO case.	The Chargesheet in this case has been filed and Petitioner has not been named as Accused.

Prima facie, the Court notes that there are serious allegations of huge defalcation of funds and loss having been caused to Financial Institutions to the tune of over Rs. 3000 Crores. The Court bears in mind that the 2017 Circular which holds the field does not restrict the issuance of a Look Out Circular merely to a situation where a criminal offence may have been committed but also extends to situations where the issuance of the Look Out Circular may be warranted bearing in mind the economic interest of the country as well as larger public interest. The nature of proceedings in which the petitioner stands arraigned, the sheer magnitude of the losses caused to the financial institutions as well as the multiple investigations which are ongoing leaves the Court convinced at this stage that the issuance of the Look Out Circular is clearly justified and that the permission if granted would be detrimental to the economic interests of the country and in any case, larger public interest would justify the restraint on travel as imposed.

Consequently, the prayer for interim permission is refused at this

stage.

Application stands disposed of.

*Dasti.*

**JULY 26, 2022***/neha*

**YASHWANT VARMA, J.**